

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

AMIEL CUETO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 3:05 cv 71 DRH
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before the Court on the Motion for Leave to Serve Discovery filed by the plaintiff, Amiel Cueto, on April 25, 2005 (Doc. 8). The motion is **DENIED AS MOOT**.

Background

On February 10, 2005, the plaintiff, Amiel Cueto, filed a motion for leave to serve discovery requests prior to an answer being filed by the defendant, the United States of America. The motion was denied without prejudice by District Judge David R. Herndon. On May 25, 2005 this Court held a scheduling conference in which a briefing schedule was entered for this renewed motion. The government timely responded on June 2, 2005. The plaintiff, however, did not file a reply by the deadline of June 15, 2005.

This civil matter is related to the imposition of fines (and/or incarceration fees/restitution) in a criminal case in which the plaintiff was convicted of conspiracy to defraud the United States and obstruction of justice. In his complaint, the plaintiff states that the government informed him that he was delinquent in paying the fines and that he owed \$3,000.00. The complaint also alleges that the government indicated that it would institute collection activities and specifically would maintain a lien on certain real estate that the plaintiff wishes to sell. The complaint alleges that the plaintiff has satisfied the fines imposed in the criminal case

and that he does not owe any more money to the United States. The plaintiff seeks an order the would dissolve the lien and a declaration that he has paid all fines in the criminal case. The plaintiff further seeks compensation for lost interest and value of the encumbered property. In this motion, the plaintiff seeks documents regarding the underlying criminal case.

#### Discussion

As the defendant has pointed out, a discovery schedule has been entered in this case. Therefore, the plaintiff may serve discovery requests on the defendant in the manner prescribed by the Federal Rules of Civil Procedure. However, it appears that much of the discovery requested by the plaintiff is irrelevant to the matters that are at the heart of this civil case.<sup>1</sup> The only issues to be resolved in this case are the amount and nature of the fines imposed by the Court and whether the plaintiff has paid these amounts. The plaintiff cannot challenge the imposition of the fines or any matter related to the underlying criminal case. Therefore, the only documents that would be relevant are the judgment entering the amount of the fines, and any amendment thereto, documents relating to the plaintiff's dates of incarceration in prison or at the halfway house, and documents related to the types of fines and/or monies paid by the plaintiff. Other documents, including the indictment or specific evidence presented at the criminal trial, are irrelevant. As the plaintiff's criminal trial was held in this district, this Court can take judicial notice of the fines imposed in the criminal matter. The plaintiff also has provided this document as an attachment to his complaint. Therefore, the only discoverable documents that

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<sup>1</sup>Although neither party has provided the actual discovery requests to the Court, this Court infers, from the plaintiff's motions, the defendants response, and the parties representations at the scheduling conference in this matter, that the plaintiff generally is seeking documents and admissions related to his criminal case.

are outstanding are receipts and payments memorializing monies paid and received by the plaintiff and the government, respectively.

For the foregoing reasons, the Motion for Leave to Serve Discovery filed by the plaintiff, Amiel Cueto, on April 25, 2005 is **DENIED AS MOOT** (Doc. 8). The plaintiff may seek discovery consistent with the Federal Rules of Civil Procedure and this order.

**DATED: June 24, 2005.**

s/ Donald G. Wilkerson  
**DONALD G. WILKERSON**  
United States Magistrate Judge